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8 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
9 AT TACOMA

10 GABRIEL JOSEPH MORALES,

11 Petitioner,

12 v.

13 STATE OF WASHINGTON,

14 Respondent.

CASE NO. 3:17-CV-05344-RBL-JRC

REPORT AND RECOMMENDATION

NOTED FOR: SEPTEMBER 15, 2017

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16 The District Court has referred this petition for a writ of habeas corpus to United States  
17 Magistrate Judge J. Richard Creatura. The Court's authority for the referral is 28 U.S.C. §  
18 636(b)(1)(A) and (B), and local Magistrate Judge Rules MJR3 and MJR4. Petitioner filed the  
19 petition pursuant to 28 U.S.C. § 2254.

20 The Court recommends that the action be dismissed. Petitioner has failed to comply with  
21 a Court order and failed to prosecute this action.

22 **BACKGROUND**

23 On May 9, 2017, petitioner filed a petition for a writ of habeas corpus. Dkt. 1. After  
24 granting his motion for leave to proceed in forma pauperis (Dkt. 4), the Court ordered petitioner

1 to file an amended petition (Dkt. 7) because petitioner had not adhered to the Rules Governing  
2 Section 2254 Cases. Petitioner had until July 14, 2017 to file an amended petition. Dkt. 7.  
3 Petitioner has failed to do so.

#### 4 DISCUSSION

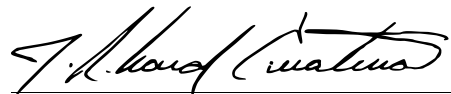
5 Federal Rule of Civil Procedure 41(b) provides for involuntary dismissal if a petitioner  
6 fails to prosecute or to comply with a court order. The dismissal counts as an adjudication on the  
7 merits unless the Court provides otherwise.

8 Petitioner has failed to file an amended petition in compliance with the Court's order.  
9 Because petitioner has failed to comply with the order and has also failed to prosecute this  
10 action, the Court recommends dismissal of this action.

#### 11 CONCLUSION

12 The Court recommends that this action be dismissed for failure to comply with a Court  
13 order. Pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), petitioner shall have fourteen  
14 (14) days from service of this Report to file written objections. *See also* Fed. R. Civ. P. 6. Failure  
15 to file objections will result in a waiver of those objections for purposes of de novo review by the  
16 district judge. *See* 28 U.S.C. § 636(b)(1)(C). Accommodating the time limit imposed by Fed. R.  
17 Civ. P. 72(b), the clerk is directed to set the matter for consideration on **September 15, 2017** as  
18 noted in the caption.

19 Dated this 24th day of August, 2017.

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22 J. Richard Creatura  
23 United States Magistrate Judge  
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